

### **Quality in Health Professions Trust Fund I**

1       SECTION 4. Section 35X of chapter 10 of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out, in lines 22 to 24, inclusive, the words "and that total not more  
3 than 20 percent of the department's expenditures related to health board licensing for the previous fiscal  
4 year".

### **Quality in Health Professions Trust Fund II**

1       SECTION 5. Said section 35X of said chapter 10, as so appearing, is hereby further amended by  
2 adding the following subsection:-

3       (d) Notwithstanding any general or special law to the contrary, once a fee has been increased under  
4 subsection (c), the total amount of any further increase in the fee or any new fee created for obtaining or  
5 renewing a license, certificate, registration, permit or authority issued by a board within the department of  
6 public health, excluding the board of registration in medicine, adopted by the secretary of administration  
7 and finance, following a public hearing, shall be deposited in the fund.

### **Massachusetts Military Family Relief Fund**

1       SECTION 6. Section 35CC of said chapter 10, as so appearing, is hereby amended by inserting  
2 after the word "purposes", in line 12, the following words:- "and for administrative costs, including a staff  
3 member to manage the programs served by the fund. These administrative costs, excluding the staff  
4 member, shall not exceed 5 per cent of the monies in the fund in a given year."

### **Consolidated Net Surplus Distribution I**

1       SECTION 7. Chapter 10 of the General Laws is hereby amended by inserting after section 69 the  
2 following section:-

3       Section 69A. (a) There shall be established and set up on the books of the commonwealth a separate  
4 fund to be known as the Bay State Competitiveness Investment Fund. The comptroller shall administer the  
5 fund and shall be its trustee. There shall be credited to the fund amounts transferred under clause (b) of  
6 section 5C of chapter 29 and amounts deposited from other sources by law.

7       (b) At the end of each fiscal year, the comptroller shall transfer from the fund, without further  
8 appropriation, the following amounts:

9       (1) not more than \$25,000,000 to the Massachusetts Life Sciences Investment Fund established by  
10 section 5 of chapter 23I; and

11       (2) after making the transfer required by clause (1), the balance as follows, but if the balance in the  
12 fund is insufficient the following transfer shall be proportionately reduced accordingly: \$7,000,000 to the  
13 Massachusetts Cultural Facilities Fund, established by section 42 of chapter 23G.

### **Medicare Part D and Prescription Advantage I**

1       SECTION 8. Subsection (k) of section 39 of chapter 19A of the General Laws, as appearing in the  
2 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the  
3 following sentence:- In order to maintain the fiscal viability of the program, the department shall adjust cost  
4 sharing required of enrollees in the form of co-payments, premiums and deductibles, or any combination of  
5 these forms, to reflect price trends for outpatient prescription drugs, as determined by the secretary.

## **Medicare Part D and Prescription Advantage II**

1       SECTION 9. Said section 39 of said chapter 19A, as so appearing, is hereby further amended by  
2 adding the following 3 subsections:-

3       (t) In addition to the eligibility requirements set forth in this section, to be considered eligible for the  
4 program, individuals who receive Medicare and are applying for, or are then enrolled in, the program shall  
5 also be enrolled in a Medicare prescription drug plan, a Medicare Advantage prescription drug plan, or a  
6 plan which provides creditable prescription drug coverage as defined by section 104 of the Medicare  
7 Prescription Drug, Improvement and Modernization Act of 2003, in this section called MMA, and which  
8 provides coverage of the cost of prescription drugs actuarially equal to or better than that provided by  
9 Medicare Part D, in this section called a creditable coverage plan.

10       (u) In addition to the eligibility requirements set forth in this section, to be considered eligible for  
11 the program, individuals who receive Medicare and are applying for, or are then enrolled in, the program,  
12 who may qualify for the low-income subsidy provided under MMA Subpart P - Premiums and cost-sharing  
13 subsidies for low-income individuals, shall apply for those subsidies. To the extent permitted by MMA and  
14 regulations adopted under it and all other applicable federal law, the program may apply on behalf of a  
15 member for enrollment into a Medicare prescription drug plan or for the low-income subsidy provided  
16 under MMA and may receive information about the member's eligibility and enrollment status necessary  
17 for the operation of the program.

18       (v) For enrollees who qualify for enrollment in a Medicare Part D plan, the program shall provide a  
19 supplemental source of financial assistance for prescription drug costs, in this section called supplemental  
20 assistance, in lieu of the catastrophic prescription drug coverage provided under this section. The program  
21 shall provide supplemental assistance for premiums, deductibles, payments and co-payments required by a  
22 Medicare prescription drug plan or Medicare Advantage prescription drug plan, and shall provide  
23 supplemental assistance for deductibles, payments and co-payments required by a creditable coverage plan.  
24 The department may take steps for the coordination of these benefits. The department shall establish the  
25 amount of the supplemental assistance it will provide enrollees based on a sliding income scale and the  
26 coverage provided by the enrollees' Medicare prescription drug plan, Medicare Advantage prescription  
27 drug plan or creditable coverage plan. In addition to the eligibility requirements set forth in this section, to  
28 be considered eligible for the program, an individual shall have a household income of less than 500 per  
29 cent of the poverty guidelines updated periodically in the Federal Register by the United States Department  
30 of Health and Human Services under 42 U.S.C. section 9902(2). Residents of the commonwealth who are  
31 not eligible for Medicare shall continue to be eligible for the program under this section.

## **Department of Mental Retardation Name Change I**

1       SECTION 10. Section 1 of chapter 19B of the General Laws, as so appearing, is hereby amended  
2 by striking out, in lines, 1 and 2, the words "mental retardation" and inserting in place thereof, in each  
3 instance, the following words:- developmental disability services.

## **Railroad Bridge Safety**

1       SECTION 11. Section 12F of chapter 25 of the General Laws, as so appearing, is hereby amended  
2 by adding the following paragraph:-

3       The commission may make an assessment against each railroad corporation or railway company  
4 under the jurisdictional control of the department, based upon the intrastate operating revenues as shown in  
5 the annual report of each such company to the department. The assessments shall be made at a rate  
6 sufficient to collect a maximum of \$500,000 annually, as shall be determined and certified annually by the  
7 commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for  
8 costs incurred by the transportation division related to railroad bridge inspections pursuant to section 83 of  
9 chapter 159, including administrative costs and for the cost of fringe benefits as established by the

10 commissioner of administration pursuant to section 5D of chapter 29, including group life and health  
11 insurance, retirement benefits, paid vacations, holidays and sick leave. The funds may be used to  
12 compensate consultants in hearings on petitions filed by companies subject to assessment under this section  
13 and for consultants for the purpose of railroad bridge inspections. Each company shall pay the amount  
14 assessed against it within 30 days after the date of the notice of assessment from the department. Such  
15 assessments shall be collected by the department and credited to the General Fund. Any funds unexpended  
16 in any fiscal year for the purposes for which such assessments were made shall be credited against the  
17 assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be  
18 reduced by any such unexpended amount.

## **Consolidated Net Surplus Distribution II**

1 SECTION 12. Chapter 29 of the General Laws is hereby amended by striking out section 5C, as  
2 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

3 Section 5C. The comptroller shall annually, on or before October 31, certify to the secretary of  
4 administration and finance the amount of the consolidated net surplus in the budgetary funds at the close of  
5 the preceding fiscal year. The amounts so certified shall be disposed as follows:

6 (a) an amount equal to 1/2 of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be  
7 available to be used as revenue for the current fiscal year and 1/2 of 1 per cent of the total revenue from  
8 taxes in the preceding fiscal year shall be transferred to the Commonwealth Stabilization Fund;

9 (b) an amount of not more than \$50,000,000 shall be transferred to the Bay State Competitiveness  
10 Investment Fund established in section 69A of chapter 10; and

11 (c) any remaining amount of the consolidated net surplus after amounts made available in clauses (a) and  
12 (b) shall be transferred to the Commonwealth Stabilization Fund.

13 All transfers specified in this section shall be made from the undesignated fund balances in the  
14 budgetary funds proportionally from those undesignated fund balances, but no such transfer shall cause a  
15 deficit in any of those funds. Before certifying the consolidated net surplus in accordance with this section,  
16 the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by  
17 transferring positive fund balances from any other fund contributing to the surplus.

## **Extending PRIT Funding Schedule by Three Years**

1 SECTION 13. Section 22C of chapter 32 of the General Laws, as so appearing, is hereby amended  
2 by striking out, in line 29, the words "as of June thirtieth, two thousand and 23" and inserting in place  
3 thereof the following:- "on June 30, 2026".

## **Increasing COLA Base for State and Teachers' Retirement Systems**

1 SECTION 14. Section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in  
2 lines 32, 36 and 43, the figure "\$12,000" and inserting in place thereof, in each instance, the following  
3 figure:- \$16,000.

## **Increasing COLA Base for Local Retirement Systems**

1 SECTION 15. Section 103 of said chapter 32, as so appearing, is hereby amended by striking out,  
2 in line 14, the figure "\$12,000" and inserting in place thereof the following figure:- \$16,000.

### **Increasing Eligibility Threshold for Senior Property Tax Deferral**

1       SECTION 16. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by  
2 striking out, in line 991, the words “forty thousand dollars” and inserting in place thereof the following  
3 words:- the amount of income determined by the commissioner of revenue for the purposes of subsection  
4 (k) of section 6 of chapter 62, for a single person who is not a head of household.

### **Tax Revenue Enforcement Efficiencies I**

1       SECTION 17. Section 15 of chapter 60 of the General Laws, as so appearing, is hereby amended  
2 by striking out, in line 5, the words “five dollars” and inserting in place thereof the following words:- “not  
3 more than \$30.”

### **Deferring Auto Excise Taxes for National Guard Members**

1       SECTION 18. Chapter 60A of the General Laws is hereby amended by adding the following  
2 section:-

3       Section 9. Upon acceptance of this section by a municipality and notwithstanding any other provision of  
4 this chapter to the contrary, any excise due under this chapter by a member of the Massachusetts National  
5 Guard or reservist or a dependent of a member of the Massachusetts National Guard or reservist shall be  
6 deferred while that member is on active service outside the commonwealth and for 180 days after  
7 completion of that service. No interest or penalties shall be assessed for any period before the expiration of  
8 the 180 days.

### **Technical Correction to Agricultural and Recreational Land Law I**

1       SECTION 19. Section 14 of chapter 61A of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out, in line 11, the words “forest use of” and inserting in place  
3 thereof the following words:- agricultural or horticultural use of such.

### **Technical Correction to Agricultural and Recreational Land Law II**

1       SECTION 20. Section 9 of chapter 61B of the General Laws, as so appearing, is hereby amended  
2 by striking out, in line 11, the words “forest use of such land” and inserting in place thereof the following  
3 words:- use and care of such land for recreational purposes.

### **Tax Revenue Enforcement Efficiencies II**

1       SECTION 21. Chapter 62B of the General Laws is hereby amended by inserting after section 13  
2 the following section:-

3       Section 13A. The commissioner may require a taxpayer, or a person paying, crediting or allocating  
4 an amount to a taxpayer, to make estimated tax payments on amounts the taxpayer is reasonably likely to  
5 receive. The commissioner may require a minimum estimated tax payment and may require payment on or  
6 before the date of receipt of income. In exercising this authority, the commissioner may require a  
7 nonresident taxpayer to estimate and pay, on or before the time of sale, the income tax liability on the gain  
8 from the sale or transfer of real property in the commonwealth. The commissioner may issue regulations  
9 governing the administration of this section. In the event of a sale, transfer or disposition of property, a lien  
10 in the amount of any required estimated payment shall arise with regard to the property, to the extent  
11 provided by regulation, if such a required estimated tax payment is not timely made.

### **Tobacco Reclassification I**

1       SECTION 22. Section 16 of chapter 62C of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by inserting after subsection (c) the following subsection:-

3       (c½) Every licensee under section 7B of chapter 64C shall, on or before the twentieth day of each  
4 calendar month or on or before the twentieth day of the month following each calendar quarter, as the  
5 commissioner shall require, file with the commissioner a return for each place of business maintained,  
6 stating the quantity of cigars and smoking tobacco sold by such licensee in the commonwealth during the  
7 preceding calendar month or quarter, as the case may be, and such return shall contain or be accompanied  
8 by such further information as the commissioner shall require. If a licensee ceases to sell cigars and  
9 smoking tobacco within the commonwealth, he shall immediately file with the commissioner a return for  
10 the period ending with such cessation.

### **Tax Revenue Enforcement Efficiencies III**

1       SECTION 23. Section 33 of said chapter 62C, as so appearing, is hereby amended by striking out,  
2 in lines 11 and 19, the words "one-half of".

### **Tax Revenue Enforcement Efficiencies IV**

1       SECTION 24. Section 47A of said chapter 62C, as so appearing, is hereby amended by striking out  
2 subsection (d) and inserting in place thereof the following 2 subsections:-

3       (d) If the commissioner determines from the information furnished pursuant to this section, or  
4 otherwise, that any person who holds a license or certificate of authority issued by any such agency or who  
5 has agreed to furnish goods, services or real estate space to any such agency has neglected or refused to file  
6 any returns or to pay any tax required under this chapter and that such person has not filed in good faith a  
7 pending application for abatement of such tax or a pending petition before the appellate tax board  
8 contesting such tax or entered a payment agreement with which the taxpayer is fully compliant, or has been  
9 penalized pursuant to section 9 of chapter 62E for failure to comply with said chapter 62E relating to  
10 reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of  
11 section 12 of chapter 119A for failure to comply with said chapter 119A relating to withholding and  
12 remitting child support, the commissioner shall notify such agency and such person in writing. Upon the  
13 written request of the commissioner, the agency, department, board, commission, division, authority,  
14 district or other agency of the commonwealth, shall promptly revoke or suspend that license or certificate  
15 of authority. Any license or certificate of authority suspended or revoked under this section shall not be  
16 reissued or renewed until the agency receives a certificate issued by the commissioner that the licensee is in  
17 good standing with respect to all returns due and taxes payable to the commissioner as of the date of  
18 issuance of the certificate, including all taxes and returns referenced in the initial notification or, if the  
19 licensee has been penalized for failure to comply with the provisions relating to reporting of employees and  
20 contractors under said chapter 62E or withholding and remitting child support under said chapter 119A, a  
21 certificate issued by the commissioner that the licensee is in compliance with those provisions.

22       (e) Where a license revocation, suspension or nonrenewal is based upon nonpayment of an assessed  
23 tax administered under this chapter, the licensee's sole right of appeal and to a hearing shall be pursuant to  
24 and within the time limitations of this chapter. The commissioner shall give the licensee not less than 30  
25 days notice of any proposed action, during which time the licensee may enter into a payment agreement  
26 with the commissioner or may file a good faith abatement application within the time periods determined  
27 under section 37. Such an abatement application shall stay a proposed license revocation, suspension, or  
28 nonrenewal until the amount of disputed tax due is finally determined. A licensee who is beyond the time  
29 limitations in section 37 but who disputes that he is liable for the assessment and is unable to resolve that  
30 issue with the commissioner during the 30-day period may appeal the proposed revocation, suspension or  
31 nonrenewal by filing a civil action under section 14 of chapter 30A. The scope of the appeal shall be  
32 limited to assertions of mistake or verification of payments made and shall not include determination or  
33 redetermination of the proper amount of tax assessed or any other issues appropriately raised through a

34 timely filed abatement under section 37. Any stay of the proposed revocation, suspension or nonrenewal  
35 pending resolution of the appeal shall be within the discretion of the court.

#### **Tax Revenue Enforcement Efficiencies V**

1 SECTION 25. Said chapter 62C is hereby further amended by inserting after said section 47A the  
2 following section:-

3 Section 47B. (a) If the commissioner determines that any person who holds a driver's license,  
4 learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration has neglected or  
5 refused to file any returns or to pay any tax required under this chapter and that the person has not filed in  
6 good faith a pending application for abatement of such tax or a pending petition before the appellate tax  
7 board contesting such tax or entered a payment agreement with which the taxpayer is fully compliant, the  
8 commissioner shall notify the registry of motor vehicles and the person in writing. Upon the written request  
9 of the commissioner, the registry shall promptly suspend or revoke or prohibit issuance or renewal of the  
10 license, learner's permit, right to operate a motor vehicle, or certificate of motor vehicle registration of the  
11 taxpayer. Any license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle  
12 registration suspended or revoked under this section shall not be reissued or renewed until the registry  
13 receives a certificate issued by the commissioner that the licensee is in good standing with respect to all  
14 returns due and taxes payable to the commissioner as of the date of issuance of the certificate, including all  
15 taxes and returns referenced in the initial notification.

16 (b) Where a license revocation, suspension or nonrenewal is based upon nonpayment of an assessed  
17 tax administered under this chapter, the licensee's sole right of appeal and to a hearing shall be pursuant to  
18 and within the time limitations of this chapter. The commissioner shall give the licensee not less than 30  
19 days notice of any proposed action, during which time the licensee may enter into a payment agreement  
20 with the commissioner or may file a good faith abatement application within the time periods determined  
21 under section 37. Such an abatement application shall stay a proposed license revocation, suspension, or  
22 nonrenewal until the amount of disputed tax due is finally determined. A licensee who is beyond the time  
23 limitations in said section 37 but who disputes that he is liable for the assessment and is unable to resolve  
24 that issue with the commissioner during the 30-day period may appeal the proposed revocation, suspension  
25 or nonrenewal by filing a civil action as provided in section 14 of chapter 30A. The scope of the appeal  
26 shall be limited to assertions of mistake or verification of payments made and shall not include  
27 determination or redetermination of the proper amount of tax assessed or any other issues appropriately  
28 raised through a timely filed abatement under said section 37. Any stay of the proposed revocation,  
29 suspension or nonrenewal pending resolution of the appeal shall be within the discretion of the court.

#### **Tax Revenue Enforcement Efficiencies VI**

1 SECTION 26. Section 49A of said chapter 62C, as appearing in the 2006 Official Edition, is  
2 hereby amended by adding the following subsection:-

3 (f) Where a license revocation, suspension or nonrenewal is based upon nonpayment of an assessed  
4 tax administered under this chapter, the licensee's sole right of appeal and to a hearing shall be pursuant to  
5 and within the time limitations of this chapter. The commissioner shall give the licensee not less than 30  
6 days notice of any proposed action, during which time the licensee may enter into a payment agreement  
7 with the commissioner or may file a good faith abatement application within the time periods determined  
8 under section 37. Such an abatement application shall stay a proposed license revocation, suspension or  
9 nonrenewal until the amount of disputed tax due is finally determined. A licensee who is beyond the time  
10 limitations in said section 37 but who disputes that he is liable for the assessment and is unable to resolve  
11 that issue with the commissioner during the 30-day period may appeal the proposed revocation, suspension  
12 or nonrenewal by filing a civil action as provided in section 14 of chapter 30A. The scope of the appeal  
13 shall be limited to assertions of mistake or verification of payments made and shall not include  
14 determination or redetermination of the proper amount of tax assessed or any other issues appropriately  
15 raised through a timely filed abatement under said section 37. Any stay of the proposed revocation,  
16 suspension or nonrenewal pending resolution of the appeal shall be within the discretion of the court.

### **Tax Revenue Enforcement Efficiencies VII**

1       SECTION 27. Section 50 of said chapter 62C, as so appearing, is hereby amended by striking out,  
2 in line 22, the words “Notwithstanding section 65, the” and inserting in place thereof the following word:-  
3 The.

### **Tax Revenue Enforcement Efficiencies VIII**

1       SECTION 28. Section 65 of said chapter 62C, as so appearing, is hereby amended by striking out  
2 the first paragraph and inserting in place thereof the following paragraph:-

3       Taxes shall be collected: (i) within 10 years after the assessment of the tax; (ii) within any further  
4 period after that 10-year period during which the taxes remain unpaid but only against any real or personal  
5 property of the taxpayer to which a tax lien has attached and for which a notice of lien has been filed or  
6 recorded under section 50 in favor of the commonwealth in accordance with applicable state or federal law  
7 within 10 years after the assessment of the tax; (iii) before the expiration of any period of collection agreed  
8 upon in writing by the commissioner and the taxpayer before the expiration of that 10-year period; or (iv) if  
9 there is a release of levy under section 64 after that 10-year period, then before that release. The period so  
10 agreed upon may be extended by subsequent agreements in writing made before the expiration of the  
11 period previously agreed upon. When any question relative to such taxes is pending before any agency or  
12 court at the end of that 10-year period, the commissioner's right to collect any tax due shall continue until 1  
13 year after the final determination of that question.

### **Tobacco Reclassification II**

1       SECTION 29. Section 67 of said chapter 62C, as so appearing, is hereby amended by striking out,  
2 in line 7, the words “or retailer” and inserting in place thereof the following words:- retailer or cigar  
3 distributor or cigar retailer.

### **Tobacco Reclassification III**

1       SECTION 30. Said section 67 of said chapter 62C of the General Laws, as so appearing, is hereby  
2 further amended by striking out, in line 21, the words “or retailer,” and inserting in place thereof the  
3 following words:- “retailer, cigar distributor or cigar retailer,”.

### **Tobacco Reclassification IV**

1       SECTION 31. Said section 67 of said chapter 62C of the General Laws, as so appearing, is hereby  
2 further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

3       All licenses, other than licenses for retailers and cigar retailers as defined in chapter 64C, shall  
4 expire annually on a date prescribed by the commissioner. Licenses for retailers and cigar retailers shall  
5 expire every other year on a date prescribed by the commissioner. The commissioner may provide for  
6 combined forms of licenses and license applications.

### **Tobacco Reclassification V**

1       SECTION 32. Said section 67 of said chapter 62C, as so appearing, is hereby further amended by  
2 striking out, in line 48, the words “and retailers” and inserting in place thereof the following words:- “,  
3 retailers, cigar distributors and cigar retailers”.

## **Tobacco Reclassification VI**

1       SECTION 33. Said section 67 of said chapter 62C, as so appearing, is hereby amended by striking  
2 out the seventh paragraph and inserting in place thereof the following paragraph:-

3       The secretary of administration and finance shall annually determine the fees for licenses and  
4 renewals thereof under section 3B of chapter 7 in the following categories: distributors; unclassified  
5 importers; unclassified exporters; manufacturers; wholesalers; vending machine operators; unclassified  
6 acquirers; transportation companies; retailers; cigar distributors; cigar retailers; user-sellers; suppliers; users  
7 of special fuels; and motor carriers or their vehicles; provided, however, that in case of a manufacturer,  
8 wholesaler, cigar distributor or vending machine operator who maintains more than 1 place of business, the  
9 fee for each additional place of business shall be one-half of the above determined fee. No fee or part  
10 thereof, shall be refunded by reason of relinquishment, suspension or revocation of a license.

## **EOHHS Debt Recovery by Tax Refund Intercept I**

1       SECTION 34. Section 1 of chapter 62D of the General Laws is hereby amended by inserting after  
2 the word "assistance", in line 4, as so appearing, the following words: - , the executive office of health and  
3 human services.

## **EOHHS Debt Recovery by Tax Refund Intercept II**

1       SECTION 35. Said section 1 of said chapter 62D is hereby further amended by inserting after the  
2 word "assistance", in line 17, as so appearing, the following words: - or the executive office of health and  
3 human services.

## **EOHHS Debt Recovery by Tax Refund Intercept III**

4       SECTION 36. Said section 1 of said chapter 62D is hereby further amended by striking out , in  
5 lines 57 to 61, inclusive, as so appearing, the words "for costs incurred as a result of noncompliance by that  
6 individual with an order to provide coverage for the cost of health services to a child eligible for assistance  
7 under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E" and  
8 inserting in place thereof the following words:- or the executive office of health and human services.

## **Tax Revenue Enforcement Efficiencies IX**

1       SECTION 37. Chapter 63B of the General Laws is hereby amended by inserting after section 2 the  
2 following section:-

3       Section 2A. The commissioner may require a taxpayer, or a person paying, crediting or allocating  
4 an amount to a taxpayer, to make estimated tax payments on amounts the taxpayer is reasonably likely to  
5 receive. The commissioner may require a minimum estimated tax payment and may require payment on or  
6 before the date of receipt of income. In exercising this authority, the commissioner may require a  
7 nonresident taxpayer to estimate and pay, on or before the time of sale, the tax liability on the gain from the  
8 sale or transfer of real property in the commonwealth. The commissioner may issue regulations governing  
9 the administration of this section. In the event of a sale, transfer or disposition of property, a lien in the  
10 amount of any required estimated payment shall arise with regard to the property, to the extent provided by  
11 regulation, if such a required estimated tax payment is not timely made.

## **Tobacco Reclassification VII**

1       SECTION 38. Section 1 of chapter 64C of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by inserting after the figure "(1)", in line 53, the following words:- ; and (3)



3 little cigars, which shall mean rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco  
4 and as to which 1,000 units weigh not more than 3 pounds.

### **Tobacco Reclassification VIII**

1 SECTION 39. Said section 1 of said chapter 64C, as so appearing, is hereby further amended by  
2 inserting after the word “meaning”, in line 56, the following words:- , without limitation, little cigars and.

### **Tobacco Reclassification IX**

1 SECTION 40. Section 6 of said chapter 64C, as so appearing, is hereby amended by striking out  
2 the last paragraph.

### **Tobacco Reclassification X**

1 SECTION 41. Said chapter 64C is hereby further amended by striking out section 7B, as so  
2 appearing, and inserting in place thereof the following section:-

3 Section 7B. (a) As used in this section, the following words shall have the following meaning ,  
4 unless the context clearly requires otherwise:

5 “Cigar”, without limitation, a cigar, cheroot or stogie; provided, however, that a cigar shall not  
6 include cigarettes as defined in this chapter.

7 “Cigar distributor”, (i) any person who imports, or causes to be imported, into the commonwealth  
8 cigars or smoking tobacco for sale or who manufactures cigars or smoking tobacco in the commonwealth,  
9 and (ii) any person within or without the commonwealth who is authorized by the commissioner to make  
10 returns and pay the excise on cigars and smoking tobacco sold, shipped or delivered by him to any person  
11 in the commonwealth.

12 “Cigar retailer”, any person who sells or furnishes cigars or smoking tobacco in small quantities to  
13 consumers for individual use; provided, however, the cigars or smoking tobacco shall not be used for the  
14 purpose of resale.

15 “Person”, a natural person, corporation, association, partnership or other legal entity.

16 “Smoking tobacco”, roll-your-own tobacco and pipe tobacco and other kinds and forms of tobacco  
17 suitable for smoking.

18 “Taxed cigars and smoking tobacco”, cigars and smoking tobacco upon which the excise has been  
19 paid in full by the date on which payment was due and with respect to which the return has been completed,  
20 signed and filed with the commissioner by the date on which the return is due, in accordance with this  
21 section and section 16 of chapter 62C.

22 “Untaxed cigars and smoking tobacco”, cigars and smoking tobacco upon which the excise has not  
23 been paid in full by the date on which payment is due or with respect to which the return has not been  
24 completed, signed and filed with the commissioner by the date on which the return is due, in accordance  
25 with this section and section 16 of chapter 62C.

26 “Wholesale price”, (i) in the case of a manufacturer of cigars and smoking tobacco, the price set for  
27 such products or, if no price has been set, the wholesale value of these products; (ii) in the case of a cigar  
28 distributor who is not a manufacturer of cigars or smoking tobacco, the price at which the cigar distributor  
29 purchased these products; or (iii) in the case of a cigar retailer or a consumer, the price at which the retailer  
30 or consumer purchased these products.

31 (b) An excise shall be imposed on all cigars and smoking tobacco held in the commonwealth at the  
32 rate of 30 per cent of the wholesale price of such products. This excise shall be imposed on cigar  
33 distributors at the time cigars or smoking tobacco are manufactured, purchased, imported, received or  
34 acquired in the commonwealth. This excise shall not be imposed on any cigars or tobacco products that: (i)  
35 are exported from the commonwealth; or (ii) are not subject to taxation by the commonwealth pursuant to  
36 any law of the United States.

37 (c) Every cigar retailer shall be liable for the collection of the excise on all cigars or smoking  
38 tobacco in his possession at any time, upon which the excise has not been paid by a cigar distributor, and

39 the failure of any cigar retailer to produce or exhibit to the commissioner or his authorized representative,  
40 upon demand, an invoice by a cigar distributor for any cigars or smoking tobacco in his possession, shall be  
41 presumptive evidence that the excise thereon has not been paid and that such cigar retailer is liable for the  
42 collection of the excise thereon.

43 (d) The amount of the excise advanced and paid by a cigar distributor or cigar retailer, as provided  
44 in this section, shall be added to and collected as part of the sales price of the cigars or smoking tobacco.

45 (e)(1) A cigar distributor shall be liable for the payment of the excise on cigars and smoking  
46 tobacco that he imports or causes to be imported into the commonwealth or that he manufactures in the  
47 commonwealth, and every cigar distributor authorized by the commissioner to make returns and pay the  
48 excise on cigars or smoking tobacco sold, shipped or delivered by him to any person in the commonwealth  
49 shall be liable for the collection and payment of the excise on all cigars and smoking tobacco sold, shipped  
50 or delivered.

51 (2) Every person who acquires taxed cigars and smoking tobacco for sale at retail, shall not be  
52 required to be licensed as a cigar distributor under this section, but shall be required, during the period that  
53 such person is a retailer of taxed cigars or smoking tobacco, to be licensed as a cigar retailer.

54 (f) A person outside the commonwealth who ships or transports cigars or smoking tobacco to cigar  
55 retailers in the commonwealth, to be sold by those cigar retailers, may apply for a license as a nonresident  
56 cigar distributor, and, if the commissioner issues a license to him, he shall thereafter be subject to this  
57 section and may act as a cigar distributor, provided that he files proof with his application that he has  
58 appointed the secretary of state as his agent for service of process relating to any matter or issue arising  
59 under this section. Such person shall also agree to submit his books, accounts and records for examination  
60 in the commonwealth during reasonable business hours by the commissioner or his authorized  
61 representative.

62 (g) Every resident of the commonwealth shall be liable for the collection of the excise on all cigars  
63 or smoking tobacco in his possession at any time, upon which the excise has not been paid by a cigar  
64 distributor or cigar retailer, and the failure of any such consumer to produce or exhibit to the commissioner  
65 or his authorized representative, upon demand, an invoice or sales receipt by a cigar distributor or cigar  
66 retailer for any cigars or smoking tobacco in his possession, shall be presumptive evidence that the excise  
67 thereon has not been paid and that such consumer is liable for the collection of the excise thereon.

68 (h) No person shall act as a cigar distributor or cigar retailer unless licensed to do so in accordance  
69 with section 67 of chapter 62C. If a cigar distributor or cigar retailer acts in more than 1 of those capacities  
70 at any 1 place of business, he shall procure a license for every capacity in which he acts unless, upon  
71 application to the commissioner, the commissioner determines otherwise. Each license so issued or a  
72 duplicate copy thereof shall be prominently displayed on the premises covered by the license.

73 (i) Except as otherwise expressly provided in this section, to the contrary, this chapter and chapter  
74 62C relative to the assessment, collection, payment, abatement, verification and administration of taxes,  
75 including penalties, shall, so far as pertinent, apply to the excise imposed by this section.

76 (j) For the purposes of section 5, cigars and smoking tobacco shall be tobacco products, cigar  
77 distributors shall be wholesalers and cigar retailers shall be retailers.

78 (k) For the purposes of section 8, untaxed cigars and smoking tobacco found in the commonwealth  
79 shall be cigarettes which have not been returned and are not returnable under section 16 of chapter 62C,  
80 cigarettes which have not been returned and are not returnable under section 6 and cigarettes, as the context  
81 requires.

82 (l)(1) Any person who sells, offers for sale or possesses with intent to sell any cigars or smoking  
83 tobacco or otherwise acts as a cigar distributor or cigar retailer without being licensed to do so shall, in  
84 addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not  
85 more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense. Any person  
86 who knowingly purchases or possesses cigars or smoking tobacco not manufactured, purchased or imported  
87 by a licensed cigar distributor or licensed cigar retailer shall, in addition to any other penalty provided by  
88 this chapter or said chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense  
89 and not more than \$25,000 for each subsequent offense.

90 No person, either as principal or agent, shall sell or solicit orders for cigars or smoking tobacco to  
91 be shipped, mailed or otherwise sent or brought into the commonwealth to any person who is not a licensed  
92 cigar distributor or licensed cigar retailer, unless the same is to be sold to or through a licensed cigar  
93 distributor or licensed cigar retailer. Any person who knowingly violates this paragraph shall, in addition to

any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

There shall be a presumption that cigars and smoking tobacco are subject to the excise until otherwise established and the burden of proof shall be upon the person on whose premises the cigars or smoking tobacco were found.

(2) Any person who knowingly has in his possession a shipping case or other container of cigars or smoking tobacco not bearing the name and address of the person receiving the cigars or smoking tobacco from a manufacturer or such other markings as the commissioner may prescribe and any person knowingly in possession of such a shipping case or other container of cigars or smoking tobacco from which the name and address has been erased or defaced shall, in addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

(3) Any person who files any false return, affidavit or statement, or who violates any provision of this section for which no other penalty has been provided shall, in addition to any other penalty provided by this chapter or said chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

(4) Whenever the commissioner or a police officer discovers any untaxed cigars or smoking tobacco in the possession of a person not licensed as a cigar distributor or otherwise authorized by the commissioner the commissioner or police officer may seize and take possession of those cigars and smoking tobacco, together with any vending machine or other receptacle, which shall include, without limitation, a motor vehicle, boat or airplane, in which they are contained or in which they are transported. Such cigars, smoking tobacco, vending machine or other receptacle seized by a police officer shall be turned over to the commissioner and shall be forfeited to the commonwealth. The commissioner shall destroy such cigars or smoking tobacco and shall destroy or otherwise dispose of such vending machine or other receptacle. The commissioner may, within a reasonable time after the seizure, by a public notice at least 5 days before the day of sale, sell the vending machine or other receptacle at public sale and deposit the proceeds in the General Fund.

(5) The state police and all local police authorities may, and at the request of the commissioner or his duly authorized agent shall, enforce this section. Each violation of this section shall be a separate offense.

### **Tobacco Reclassification XI**

SECTION 42. Said chapter 64C of the General Laws, as so appearing, is hereby further amended by striking out section 38A and inserting in place thereof the following section:-

Section 38A. Whenever the commissioner or a police officer discovers, in the possession of any person not being a stamper, licensed transportation company or one authorized by the commissioner, any cigarettes subject to tax under this chapter that do not have affixed to them the required Massachusetts stamps showing the payment of excise, or any smokeless tobacco on which the tax has not been paid, he may seize and take possession of those cigarettes or smokeless tobacco, together with any vending machine or other receptacle, which shall include, without limitation, a motor vehicle, boat or airplane, in which the cigarettes or smokeless tobacco are contained or in which they are transported. The cigarettes, smokeless tobacco, vending machine or other receptacle so seized shall be turned over to the commissioner and shall be forfeited to the commonwealth. The commissioner shall destroy such cigarettes and smokeless tobacco and shall destroy or otherwise dispose of such vending machine or other receptacle. The commissioner may, within a reasonable time after the seizure, by a public notice at least 5 days before the day of sale, sell the vending machine or other receptacle at public sale and deposit the proceeds in the General Fund.

### **Tax Revenue Enforcement Efficiencies X**

SECTION 43. Chapter 64H of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. (a) Every manufacturer, wholesaler, unclassified acquirer, as defined in chapter 64C, doing business in the commonwealth or any other person doing business in the commonwealth selling

5 tobacco products, including cigarettes, cigars, smokeless tobacco and smoking tobacco, to others for resale  
6 in the commonwealth, shall pay, as a prepayment for the tax imposed by this chapter, a tax on tobacco  
7 products that will be held for retail sale in the commonwealth. The tax shall be computed on each sale of  
8 tobacco products by multiplying the tax rate set by this chapter by the wholesale sales price at which such  
9 manufacturer, wholesaler, unclassified acquirer or other person sells the tobacco products. The tax imposed  
10 by this section shall be paid at the same time and in the same manner as the tax imposed by section 2. Any  
11 manufacturer, wholesaler, unclassified acquirer or other person prepaying the tax shall, with respect to such  
12 prepayment, be a vendor for purposes of section 1 of this chapter and section 16 of chapter 62C, shall file  
13 returns and pay over tax accordingly, and shall separately state on each customer invoice or other written  
14 record, as prescribed by the commissioner, the amount of prepaid sales tax charged.

15 (b) Every person selling tobacco products at retail in the commonwealth who is required to pay the  
16 tax imposed by this chapter shall be allowed a credit in the amount of the prepayment against the total  
17 amount of tax it is required to pay over to the commissioner under this chapter. Every such person shall  
18 maintain invoices and other records substantiating the amount of tax prepaid.

19 (c) Chapter 64I shall apply to the extent that the tax under this section is not paid over to the  
20 commissioner by a person subject to subsection (a) or (b). The taxes imposed by this section shall be  
21 conclusively presumed to be a direct tax on the retail consumer pre-collected for the purpose of  
22 convenience and facility only.

23 (d) The commissioner may adopt regulations to implement this section, which regulations shall  
24 include a provision to prevent the payment of tax by more than 1 taxpayer.

#### **Eliminating Sales Tax Exemption for Pesticides**

1 SECTION 44. Paragraph (p) of section 6 of said chapter 64H, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-  
3 (3) sales of fertilizer, including ground limestone, hydrated lime, seed inoculants and plant hormones, as  
4 well as other substances commonly regarded in the same category and for the same use, but not including  
5 any sales of pesticides, including insecticides, herbicides, fungicides, miticides and all materials registered  
6 with the Environmental Protection Agency as pesticides under the Federal Insecticide, Fungicide and  
7 Rodenticide Act and other pesticides commonly regarded in the same category and for the same purpose,  
8 except when purchased by a person licensed under chapter 132B or otherwise exempt under paragraph (r);

#### **Tax Revenue Enforcement Efficiencies XI**

1 SECTION 45. Section 33 of said chapter 64H, as so appearing, is hereby amended by adding the  
2 following sentence:- For the purposes of this section, a vendor shall include a person who has made a  
3 prepayment of tax under section 3A.

#### **Tax Revenue Enforcement Efficiencies XII**

1 SECTION 46. Section 34 of chapter 64I of the General Laws, as so appearing, is hereby amended  
2 by adding at the end thereof the following sentence:- For the purposes of this section, a vendor shall include  
3 a person who has made a prepayment of tax under section 3A of chapter 64H.

#### **Civil Remedies for Violations of Certain Labor Laws I**

1 SECTION 47. Subsection (f) of section 197B of chapter 111 of the General Laws, as so appearing,  
2 is hereby amended by striking out paragraph (4) and inserting in place thereof the following 4 paragraphs:

3 (5) In addition to any other penalties under this subsection, the director of labor may issue a  
4 written warning or a civil citation for violations of this section or regulations under this section.  
5 Subsections (c) to (i), inclusive, of section 6F 1/2 of chapter 149 shall apply to these citations.

6 (6) In addition to the cease-work order authority under this section, whenever the department  
7 of labor has reason to believe that a person, firm, corporation or other entity is engaging in or is about to  
8 engage in a violation of section 197 or this section, or the regulations under those sections, it may bring an  
9 action in the name of the commonwealth against that person, firm, corporation or other entity to restrain the  
10 violation by temporary restraining order or preliminary or permanent injunction. Subsections (a) and (b) of  
11 said section 6F (1/2) of chapter 149 shall apply to these actions.

12 (7) The director of labor may adopt regulations to carry out this section.

13  
14 (8) Nothing in this section shall limit the authority of the department of labor and workforce  
15 development under chapter 149.

### **Catastrophic Illness in Children Relief Fund Commission**

1 SECTION 48. Section 5 of chapter 111K of the General Laws, as so appearing, is hereby amended  
2 by striking subsection (h) and inserting in place thereof the following 2 subsections:-

3 (h) to authorize and make payment of all administrative costs, not to exceed 5 per cent of the monies  
4 transferred into the fund in a given fiscal year, related to the management of the program including, but not  
5 limited to, costs for staff to manage the program and coordinate the work assigned by the commission and  
6 materials development, printing, postage and telephone expenses; provided, however, that administrative  
7 costs shall not include staff costs related to case management services, including the evaluation and  
8 processing of applications; and

9 (i) to review and approve annual operating expenses.

### **Civil Remedies for Violations of Certain Labor Laws II**

1 SECTION 49. The first paragraph of section 46R of chapter 140 of the General Laws, as so  
2 appearing, is hereby amended by adding the following 3 sentences:-

3 In addition to the penalties provided for in this paragraph, the commissioner may issue a  
4 written warning or a civil citation for violations of these sections. Subsections (c) to (i), inclusive, of  
5 section 6F 1/2 of chapter 149 shall apply to these citations. The director of labor may adopt regulations for  
6 the issuance of the written warnings and citations and for the enforcement thereof.

### **Civil Remedies for Violations of Certain Labor Laws III**

1 SECTION 50. Chapter 149 of the General Laws is hereby amended by inserting after section 6F the  
2 following section:-

3 Section 6F 1/2. (a) In addition to the cease and desist authority granted in section 6E and the  
4 criminal penalties provided for in section 6F, whenever the commissioner has reason to believe that a  
5 person, firm, corporation or other entity is engaging in or is about to engage in a violation of sections 6A to  
6 6E, inclusive, or of any regulations under said sections 6A to 6E, inclusive, he may bring an action in the  
7 name of the commonwealth against such person, firm, corporation or other entity to restrain the violation  
8 by temporary restraining order or preliminary or permanent injunction. The action may be brought in the  
9 superior court of the county in which such person, firm, corporation or other entity resides or has his  
10 principal place of business, or the action may be brought in the superior court of Suffolk county with the  
11 consent of the parties or if the person, firm, corporation or other entity has no place of business within the  
12 commonwealth. If more than 1 person, firm, corporation or other entity is joined as a defendant, the action  
13 may be brought in the superior court of the county where any 1 of defendants reside or has his principal

place of business, or in Suffolk county. The court may issue temporary restraining orders or preliminary or permanent injunctions.

(b) Any person, firm, corporation or other entity that violates an injunction issued under this section shall forfeit and pay to the commonwealth a civil penalty of not more than \$10,000 for each such violation, and each day during which a person, firm, corporation or other entity fails to comply with sections 6A to 6E, inclusive, shall be considered a separate violation. For the purposes of this section, the court issuing such an injunction shall retain jurisdiction, and the case shall be continued, and in such case the department may petition for recovery of this civil penalty.

(c) In addition to the remedies under subsections (a) and (b), the commissioner may issue a written warning or a civil citation for violations of this chapter or regulations under this chapter. For each violation, a separate citation may be issued requiring any of the following: that the infraction be rectified or that a civil penalty of not more than \$5,000 for each violation be paid to the commonwealth, within 21 days of the date after issuance of such citation.

(d) Notwithstanding this section, the maximum civil penalty that may be imposed upon any person, firm, corporation or other entity who has not previously been either criminally convicted of a violation of this chapter or issued a citation under this chapter, shall be not more than \$2,500, except that in instances in which the commissioner determines that the person, firm, corporation or other entity lacked specific intent to violate this chapter, the maximum civil penalty for the person, firm, corporation or other entity that has not previously been either criminally convicted of a violation of this chapter or issued a citation under this chapter shall be not more than \$1,000.

(e) In determining the amount of each civil penalty, the department shall include, but not be limited to, the following considerations: the actual and potential impact on public health, safety and welfare and the environment of the failure to comply; whether the person, firm, corporation or other entity being assessed the civil penalty took steps to prevent noncompliance, to promptly come into compliance and to remedy and mitigate whatever harm might have been done as a result of such noncompliance; whether the person, firm, corporation or other entity assessed the civil penalty has previously failed to comply with any regulation, order, license or approval issued or adopted by the department, or any law which the department has authority or responsibility to enforce; deterring future noncompliance; the financial condition of the person, firm, corporation or other entity being assessed the civil penalty; and the public interest.

(f) Upon a failure to comply with the requirements set forth in a citation, the commissioner may order the cessation of all or the relevant activities of the person, firm, corporation or other entity, and shall, within 10 days after such order, schedule a hearing on the suspension or revocation of the license, under this chapter. Any license suspension or revocation under this section shall also apply to all affiliates of the person, firm, corporation or other entity as well as any successor company or corporation that the commissioner upon investigation, determines to not have a true independent existence apart from that of the violating person, firm, corporation or other entity.

(g) Any person, firm, corporation or other entity aggrieved by a citation or order issued pursuant to this section may appeal by filing a notice of appeal with the commissioner within 10 days after the receipt of the citation or order. Chapter 30A shall apply to such appeals.

(h) No officer of any corporation which has failed to pay a civil penalty under this section shall incorporate or serve as an officer of any corporation which did not have a legal existence as of the date that the penalty became due and payable to the commonwealth.

(i) The commissioner may adopt regulations to carry out this section.

### **Cost of Fire Services**

1       SECTION 51. Chapter 175 of the General Laws is hereby amended by striking out section 195, as  
2       appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

3       Section 195. (a) Sums for the estimated expenses for the purposes specified in subsection (b) shall  
4       be paid to the commonwealth by insurance companies writing fire, homeowners multiple peril or  
5       commercial multiple peril policies on property situated in the commonwealth within 30 days after notice  
6       from the commissioner of such estimated expenses. The commissioner shall apportion such estimated  
7       charges among all such companies and shall assess them for the same on a fair and reasonable basis. The  
8       commissioner shall subsequently apportion actual costs among all such companies and shall make  
9       assessment adjustments for the same for any variation between estimated and actual costs on a fair and  
10      reasonable basis. Such estimated and actual costs shall include an amount equal to the cost of fringe  
11      benefits as established by the secretary of administration and finance under section 6B of chapter 29.

12      (b) The costs to be paid under subsection (a) shall be for the following purposes:

13      (1) the operation of state fire training facilities and curriculum for firefighting personnel;

14      (2) implementing sections 26G 1/2 and 34A to 34D, inclusive, of chapter 148, and chapter 304 of  
15      the acts of 2004;

16      (3) student awareness of fire education programs;

17      (4) the firefighting equipment grant program; and

18      (5) capital improvements to state fire training facilities, including reimbursing the General Fund for  
19      debt service on bonds issued to pay for these capital improvements.

### **CPCS Billing**

1       SECTION 52. Section 12 of chapter 211D of the General Laws, as so appearing, is hereby amended  
2       by inserting after the sixth sentence the following sentence:- Any bills submitted more than 12 months  
3       after the completion of a case shall receive no payment from the committee unless the attorney submitting  
4       the bill has been granted a waiver by the chief counsel due to serious illness or other extenuating  
5       circumstances.

### **Suffolk County Clerk Compensation I**

1       SECTION 53. Section 16A of chapter 221 of the General Laws, as amended by section 29 of  
2       chapter 61 of the acts of 2007, is hereby further amended by adding the following sentence:- The unified  
3       session clerk shall receive, in addition to the salary paid to him as an assistant clerk under section 4, a sum  
4       equivalent to 10 per cent of the salary of an assistant clerk.

### **Board of Bar Examiners Fee Technical Correction**

1       SECTION 54. Section 37 of said chapter 221, as appearing in the 2006 Official Edition, is hereby  
2       amended by striking out the penultimate sentence.

### **Suffolk County Clerk Compensation II**

1       SECTION 55. Chapter 278 of the General Laws is hereby amended by inserting after section 28C  
2       the following section:-

3       Section 28D 1/2. The clerk, the first assistant clerk and the second assistant clerk of the  
4       appellate division shall receive from the commonwealth as salary an amount equal to 10 per cent of, and in  
5       addition to, the salaries established and paid to each of them as clerk, first assistant clerk and second  
6       assistant clerk, respectively, of the superior court for criminal business in the county of Suffolk.

7 An employee of the office of the clerk of the superior court for criminal business in the county  
8 of Suffolk shall be designated by the clerk as a clerical assistant in matters pertaining to the business of the  
9 appellate division. The clerical assistant shall receive from the commonwealth, in addition to the salary  
10 established and paid to that employee in the position held by that employee in the office of the clerk, a sum  
11 equal to 10 per cent of that salary paid to him in the office of the clerk.

12 The clerk and the assistant clerks of the appellate division shall receive for traveling expenses  
13 necessarily incurred in the performance of their official duties a sum approved by a justice of the appellate  
14 division to be paid by the commonwealth. The clerk shall receive for office expenses necessarily incurred  
15 in the conduct of the business of the appellate division such sums as may be approved by a justice of the  
16 appellate division to be paid by the commonwealth.

### **Massachusetts Academy of Math and Science**

1 SECTION 56. Chapter 110 of the acts of 1993 is hereby amended by striking out section 317 and  
2 inserting in place thereof the following section:-

3 Section 317. Notwithstanding the definition of teacher in section 1 of chapter 32 of the General  
4 Laws, any person who is employed as a teacher at the Massachusetts Academy of Math and Science on a  
5 basis of not less than half-time service shall elect to participate in either the teachers' retirement system or  
6 an alternative retirement program authorized by the academy. The election shall be made to the teachers'  
7 retirement system and shall occur within 60 days of being employed by the academy in a manner  
8 determined by the teachers' retirement board, and such election shall be irrevocable.

### **Extending Sunset for Active Duty State Employees**

1 SECTION 57. Chapter 137 of the acts of 2003 is hereby amended by striking out section 21, as  
2 amended by section 2 of chapter 77 of acts of 2005, and inserting in place thereof the following section:-

3 Section 21. Section 1 shall expire on September 11, 2011. Sections 2 and 3 shall expire on  
4 September 11, 2005.

### **Water Supply Protection Trust**

1 SECTION 58. Section 417 of chapter 149 of the acts of 2004, is hereby amended by striking out, in  
2 line 2, the figure "2009", inserted by section 82 of chapter 139 of the acts of 2006, and inserting in place  
3 thereof the following figure:- 2011.

### **Pay for Performance Payments**

1 SECTION 59. Chapter 58 of the acts of 2006 is hereby amended by striking out section 128, as  
2 appearing in section 40 of chapter 61 of the acts of 2007, and inserting in place thereof the following  
3 section:-

4 Section 128. Notwithstanding any general or special law to the contrary and in accordance with  
5 section 13B of chapter 118E of the General Laws, in fiscal year 2007, \$90,000,000 shall be made available  
6 from the Commonwealth Care Trust Fund, established pursuant to section 2000 of chapter 29 of the  
7 General Laws, to pay for an increase in the Medicaid rates paid to acute hospitals and physicians; but not  
8 less than 15 per cent of the increase shall be allocated to rate increases for physicians. For fiscal year 2008,  
9 an additional \$90,000,000, for a total of \$180,000,000, shall be made available from the Commonwealth  
10 Care Trust Fund in accordance with this section, to pay for an increase in the Medicaid rates paid to acute  
11 hospitals and physicians; but not less than 15 per cent of the increase shall be allocated to rate increases for  
12 physicians. In fiscal year 2009, an additional \$90,000,000, for a total of \$270,000,000, shall be made  
13 available from said Commonwealth Care Trust Fund to pay for an increase in the Medicaid rates paid to



14 acute hospitals and physicians but not less than 15 per cent of the increase shall be allocated to rate  
15 increases for physicians. In fiscal year 2008, not more than \$20,000,000 of the amounts to be made  
16 available to acute hospitals under this section shall be contingent on hospital adherence to quality standards  
17 and achievement of performance benchmarks, including the reduction of racial and ethnic disparities in the  
18 provision of health care, in accordance with said section 13B of said chapter 118E, and may be paid in  
19 fiscal year 2009. In fiscal year 2009, not more than \$58,000,000 of the amounts to be made available to  
20 acute hospitals under this section shall be contingent on hospital adherence to quality standards and  
21 achievement of performance benchmarks, including the reduction of racial and ethnic disparities in the  
22 provision of health care, in accordance with section said 13B of said chapter 118E, and may be paid in  
23 fiscal year 2010. For fiscal years 2008 and 2009, any such performance benchmarks shall be determined by  
24 the secretary of health and human services without any limitation but in consultation with hospitals, the  
25 MassHealth payment policy advisory board and the health care quality and cost council, and the benchmark  
26 may include measures to be reported by hospitals to the federal Centers for Medicare and Medicaid  
27 Services for Reporting Hospital Quality Data for Annual Payment Update, to the Joint Commission on  
28 Accreditation of Healthcare Organizations for core measures, or to the MassHealth Program pursuant to  
29 Appendix G of the contract between MassHealth and acute hospitals for Rate Year 2007 or other  
30 nationally-recognized measures that are drawn on those approved by the National Quality Forum and  
31 adopted by the Hospitals Quality Alliance Performance benchmarks and quality measures related to racial  
32 and ethnic disparities in the provision of health care. The secretary of health and human services shall, after  
33 the consultation required by said section 13B of said chapter 118E, issue final quality standards and  
34 performance benchmarks for use in the hospital fiscal year beginning October 1, 2008. For purposes of  
35 payments to hospitals pursuant to this section, fiscal year shall mean the hospital's fiscal year and for  
36 purposes of any payments to physicians pursuant to this section, fiscal year shall mean the state fiscal year.

#### **Asian American Commission**

1 SECTION 60. Section 3 of chapter 258 of the acts of 2006 is hereby amended by adding the  
2 following clause: -

3 (g) The state auditor shall appoint, on or before October 1, 2008, 1 member for a term of 1 year, 1  
4 member for a term of 2 years and 1 member for a term of 3 years.

#### **Transfers Between Operating and Capital Funds**

1 SECTION 61. (a) Whenever the commonwealth has borrowed funds as authorized by law to fund  
2 the acquisition of equipment that would have otherwise been funded under an item of appropriation in  
3 section 2, the secretary of administration and finance may authorize the transfer of funds from the item of  
4 appropriation in section 2 from which the equipment acquisition would have been funded to any other item  
5 of appropriation for the purpose of funding personnel or other operating-related expenses that would have  
6 otherwise been funded in the fiscal year 2009 capital budget from the proceeds of bonds. The secretary may  
7 establish an appropriation account to receive this transfer if none exists under section 2. Any amount  
8 transferred under this section shall not exceed the cost of the related equipment acquisition, and the  
9 aggregate amount of all such transfers shall not exceed \$50,000,000.

10 (b) Before making any transfer authorized by this section, the secretary of administration and  
11 finance shall submit a transfer report and certification to the house and senate committees on ways and  
12 means. The report and certification shall include the following: (1) a schedule showing the cost of  
13 equipment acquisition that would have been funded from an item of appropriation in section 2, the item of  
14 appropriation from which the equipment would have been funded and the bond authorization against which  
15 bonds may be issued to fund the acquisition of the equipment; (2) a schedule showing the cost of all  
16 personnel and other operating expenses that would have been funded from the fiscal year 2009 capital  
17 budget, identification of each of the agencies that pay the related expenses, the item in the capital budget  
18 and the bond authorization from which the personnel or operating expenses would have been funded, and  
19 the item of appropriation in section 2 from which the personnel or operating expenses will be funded; (3) a

20 schedule of each amount that will be transferred from one item of appropriation in section 2 to another  
21 under subsection (a) in order to effectuate the transactions described in clauses (1) and (2); and (4) a  
22 certification of the secretary confirming that the equipment will be acquired in fiscal year 2009 with bond  
23 proceeds pursuant to the fiscal year 2009 capital budget and the bond authorization identified in clause (1).

#### **Tourism Fund Formula**

1 SECTION 62. Notwithstanding any general or special law to the contrary, section 35J of chapter 10  
2 of the General Laws shall not apply in fiscal year 2009.

#### **Suspension of Stabilization Fund Deposit**

1 SECTION 63. Notwithstanding any general or special law to the contrary, during fiscal year 2009  
2 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal year to  
3 the Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of the General  
4 Laws, as otherwise required pursuant to clause (a) of section 5C of chapter 29 of the General Laws.

#### **Stabilization Interest Transfer**

1 SECTION 64. Notwithstanding any general or special law to the contrary, the comptroller shall, no  
2 later than June 30, 2009, transfer the interest earned from the Commonwealth Stabilization Fund during  
3 fiscal year 2009 to the General Fund.

#### **Stabilization Fund Transfer**

1 SECTION 65. Notwithstanding any general or special law to the contrary, the comptroller shall, on  
2 or before June 30, 2008, transfer \$292,000,000 to the General Fund from the Commonwealth Stabilization  
3 Fund, but the comptroller shall instead transfer a lesser amount if the secretary of administration and  
4 finance so requests in writing.

#### **Transfer to State Retiree Benefits Trust Fund**

1 SECTION 66. Notwithstanding any general or special law to the contrary, during fiscal year 2009,  
2 the comptroller shall, according to a schedule developed in consultation with the state treasurer and the  
3 secretary of administration and finance, transfer \$372,000,000 from the General Fund to the State Retiree  
4 Benefits Trust Fund, established by section 24 of chapter 32A of the General Laws.

#### **Deposit of Tobacco Litigation Proceeds**

1 SECTION 67. Notwithstanding any general or special law to the contrary, during fiscal year 2009,  
2 the comptroller shall transfer from the State Retiree Benefits Trust Fund, established pursuant to section 8  
3 of chapter 61 of the acts of 2007, to the General Fund an amount equal to 100 per cent of the total of all  
4 payments received by the commonwealth in fiscal year 2009 pursuant to the master settlement agreement in  
5 the action known as Commonwealth of Massachusetts v. Philip Morris, Inc. et. al., Middlesex Superior  
6 Court, No. 95-7378 for certain health care and tobacco control expenditures.

## Electronic Health Records

1       SECTION 68. Notwithstanding any general or special law to the contrary, on or before October 1,  
2 2008 and without further appropriation, the comptroller shall transfer \$25,000,000, in proceeds from any  
3 statutorily-authorized increase in excise imposed on the sale of tobacco after January 1, 2008 from the  
4 General Fund to the e-Health Institute Fund, established in section 6D of chapter 40J of the General Laws.  
5 The fund shall be available to the e-Health Institute, established pursuant to said section 6D, to facilitate the  
6 transformation of care delivery and the utilization of care process redesign supported by a statewide,  
7 interoperable electronic health records system.

## Transfers Among Health Care Funds

1       SECTION 69. (a) Notwithstanding any general or special law to the contrary, on or before October  
2 1, 2008 and without further appropriation, the comptroller shall transfer from the General Fund to the  
3 Health Safety Net Trust Fund, established pursuant to section 36 of chapter 118G of the General Laws and  
4 in this subsection called the fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to  
5 hospitals and community health centers required pursuant to subsection (b), for the purpose of making  
6 initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1,  
7 2008. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of  
8 their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund not later  
9 than June 30, 2009, the amount of the transfer authorized by this subsection and any allocation thereof as  
10 certified by the director of the health safety net office.

11       (b) Notwithstanding any general or special law to the contrary, the comptroller shall, in  
12 consultation with the state treasurer, the secretary of administration and finance and the secretary of health  
13 and human services, develop a schedule for transferring funds among the General Fund, the  
14 Commonwealth Care Trust Fund, established by section 2000 of chapter 29 of the General Laws and the  
15 Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws. Not less  
16 than \$1,292,561,456, including proceeds from any statutorily authorized increase in excise imposed on the  
17 sale of tobacco after January 1, 2008, shall be transferred from the General Fund to the Commonwealth  
18 Care Trust Fund and not less than \$62,996,382 be transferred from the Commonwealth Care Trust Fund to  
19 the Health Safety Net Trust Fund. The hospital fiscal year 2009 payment amount to each hospital shall be  
20 funded by the Health Safety Net Trust Fund. Payments may be made either as safety net care payments  
21 under the Commonwealth's 1115 waiver, or as an adjustment to Title XIX service rate payments, or a  
22 combination thereof. The executive office of health and human services and the health safety net office  
23 may use other federally permissible funding mechanisms available for public service hospitals, as defined  
24 in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources  
25 distinct from the funding made available to the Health Safety Net Trust Fund. The executive office of  
26 health and human services shall make expenditures required for fiscal year 2008 under section 122 of  
27 chapter 58 of the acts of 2006. The schedule shall provide for transfers in increments considered  
28 appropriate to meet the cash flow needs of these funds. The transfers shall not begin before July 1, 2008  
29 and shall be completed on or before June 30, 2009. The secretary of administration and finance, in  
30 consultation with the secretary of health and human services and the executive director of the  
31 commonwealth health insurance connector, shall on a quarterly basis evaluate the revenue needs of the  
32 health safety net program funded by the Health Safety Net Trust Fund and the Commonwealth Care  
33 subsidized health insurance program funded from the Commonwealth Care Trust Fund, and if necessary,  
34 transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to  
35 support projected program expenditures. The secretary of health and human services in consultation with  
36 the secretary of administration and finance and the executive director of the commonwealth health  
37 insurance connector shall submit a quarterly report to the house and senate committees on ways and means  
38 and joint committee on healthcare financing which shall include, but not be limited to, the projected and  
39 actual expenditures and revenues for the Commonwealth Care Trust Fund and any transfers made between  
40 the Health Safety Net Trust Fund and the Commonwealth Care Trust Fund.

41 (c) Notwithstanding any general or special law to the contrary, the comptroller shall, in  
42 consultation with the office of the state treasurer, the executive office of administration and finance and the  
43 executive office of health and human services, develop a schedule and make a series of transfers not to  
44 exceed \$346,000,000 from the General Fund to the MassHealth provider payment account in the Medical  
45 Assistance Trust Fund established in section 2QQQ of chapter 29 of the General Laws if the comptroller  
46 has determined that General Fund revenues are sufficient to accommodate the schedule of transfers. Any  
47 increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year  
48 2009 shall be made only after the secretary of health and human services certifies that any increase in  
49 payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver spending. The  
50 secretary of health and human services shall notify, in writing, the house and senate committees on ways  
51 and means and the joint committee on healthcare financing of that certification within 15 days of the  
52 certification. These funds shall be expended only for services provided during state or federal fiscal year  
53 2009, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund shall  
54 be expended on payments described in the 1115 demonstration waiver for services provided during state  
55 fiscal year 2009 or payments described in the state plan for services provided during federal fiscal year  
56 2009. All payments from the Medical Assistance Trust Fund shall be subject to the availability of federal  
57 financial participation, shall be made only in accordance with federally-approved payment methods, shall  
58 be consistent with federal funding requirements and all federal payment limits as determined by the  
59 secretary of health and human services, and shall be subject to the terms and conditions of an agreement  
60 with the executive office of health and human services. The secretary of health and human services shall  
61 make a payment of up to \$148,000,000 from the Medical Assistance Trust Fund to the Cambridge Public  
62 Health Commission's hospital network for dates of service in state and federal fiscal year 2009 only after  
63 the Cambridge Public Health Commission transfers up to \$74,000,000 of its funds to the Medical  
64 Assistance Trust Fund using a federally-permissible source of funds which shall fully satisfy the non-  
65 federal share of such payment.

#### **Essential Community Provider Trust Fund Transfer**

1 SECTION 70. Notwithstanding any general or special law to the contrary, the comptroller, in  
2 consultation with the secretary of health and human services, shall develop a schedule for transferring not  
3 less than \$25,000,000 from the General Fund to the Essential Community Provider Trust Fund, established  
4 in section 2PPP of chapter 29 of the General Laws, for the purpose of making expenditures as described in  
5 this section in fiscal year 2009. The secretary shall authorize expenditures by the division of health care  
6 finance and policy from the fund without further appropriation for the purpose of: (1) grants to financially  
7 distressed MassHealth providers that provide emergency care, behavioral health, and routine care for  
8 MassHealth and Commonwealth Care members; (2) grants to financially viable MassHealth providers that  
9 are essential providers to MassHealth and Commonwealth Care members; (3) a program, which may be  
10 based on the Medicare Management Performance Demonstration or similar models, to provide financial  
11 incentives to small group practices with MassHealth Primary Care Clinician Plan enrollment of between  
12 100 and 1,000 members, which shall: (a) report specified clinical data; (b) achieve specified clinical  
13 benchmarks in service delivery and care management; and (c) implement an electronic medical record  
14 system within specified timeframes and with specified data sharing capacity; (4) a program to provide  
15 financial incentives to encourage the establishment of systems of care in communities with high  
16 concentrations of MassHealth, Commonwealth Care, and Group Insurance Commission membership to  
17 engage hospitals, community health centers, community mental health centers, physicians, and other  
18 providers, and to reward such providers based upon their ability to timely deliver expected health outcomes  
19 in a lower cost setting; and (5) a program to review and address, as necessary, payments for behavioral  
20 health care to MassHealth members in community hospital settings, and coordination of inpatient and  
21 outpatient care in such settings. The secretary, in consultation with the division, shall determine which  
22 entities meet the purposes and criteria described in this section. The executive office of health and human  
23 services shall structure expenditures under this section to maximize allowable federal reimbursement under  
24 Title XIX. All federal financial participation received for expenditures from the Essential Community  
25 Provider Trust Fund shall be deposited in the General Fund and shall be available for further appropriation  
26 for purposes specified in this section.

### **Dental Caseload Cap**

1       SECTION 71. Notwithstanding any general or special law to the contrary, the executive office of  
2 health and human services may promulgate regulations allowing any dentist participating in the  
3 MassHealth program to limit the number of MassHealth patients in his practice in accordance with  
4 standards or procedures to be established by the executive office.

### **Tobacco Reclassification XII**

1       SECTION 72. Notwithstanding any general or special law to the contrary, every vending machine  
2 operator or retailer, as defined in section 1 of chapter 64C of the General Laws, or any other licensee, as  
3 prescribed by the commissioner of revenue, who, at the commencement of business on the effective date of  
4 this section, has on hand cigars or smoking tobacco for sale, shall make and file with the commissioner of  
5 revenue within 20 days thereafter a return, subscribed under the penalties of perjury, showing a complete  
6 inventory of those cigars and smoking tobacco, and shall, at the time he is required to file the return, pay  
7 the excise due on cigars and smoking tobacco on which he has not previously remitted the excise to the  
8 commissioner of revenue. Chapters 62C and 64C of the General Laws relative to the assessment,  
9 collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as  
10 pertinent, apply to the excise imposed by this section.

### **Annual Pension COLA**

1       SECTION 73. Notwithstanding any general or special law to the contrary, the amounts transferred  
2 pursuant to paragraph (1) of section 22C of chapter 32 of the General Laws shall be made available for the  
3 commonwealth's Pension Liability Fund established pursuant to section 22 of said chapter 32. The amounts  
4 transferred pursuant to said paragraph (1) of said section 22C of said chapter 32 shall meet the  
5 commonwealth's obligations pursuant to said section 22C of said chapter 32, including retirement benefits  
6 payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3  
7 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of local  
8 retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said  
9 chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The  
10 state board of retirement and each city, town, county and district shall verify these costs, subject to the rules  
11 adopted by the treasurer. The treasurer may make payments upon a transfer of funds to reimburse certain  
12 cities and towns for pensions to retired teachers, including any other obligations which the commonwealth  
13 has assumed on behalf of any retirement system other than the state employees' or state teachers'  
14 retirement systems and also including the commonwealth's share of the amounts to be transferred pursuant  
15 to section 22B of said chapter 32 and the amounts to be transferred pursuant to clause (a) of the last  
16 paragraph of section 21 of chapter 138 of the General Laws. Payments for the purposes described in this  
17 section shall be made only pursuant to distribution of monies from the fund, and any distribution and the  
18 payments for which distributions are required shall be detailed in a written report filed quarterly by the  
19 commissioner of administration with the house and senate committees on ways and means and the joint  
20 committee on public service in advance of this distribution. Distributions shall not be made in advance of  
21 the date on which a payment is actually to be made. The state board of retirement may expend an amount  
22 for the purposes of the board of higher education's optional retirement program pursuant to section 40 of  
23 chapter 15A of the General Laws. To the extent that the amount transferred pursuant to paragraph (1) of  
24 section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension  
25 obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund of the  
26 commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth.

### **Trial Court Transferability**

1       SECTION 74. Notwithstanding subclause (a) of clause (xxiii) of the third paragraph of section 9 of  
2 chapter 211B of the General Laws, or any other general or special law to the contrary, the chief justice for  
3 administration and management may, from the effective date of this act through April 30, 2009, transfer  
4 funds from any item of appropriation within the trial court, except items 0339-1001, 0339-1003 and 0339-  
5 1004, to any other item of appropriation within the trial court, except items 0339-1001, 0339-1003 and  
6 0339-1004. These transfers shall be made in accordance with schedules submitted to the house and senate  
7 committees on ways and means. The schedule shall include the following: (1) the amount of money  
8 transferred from 1 item of appropriation to another; (2) the reason for the necessity of the transfer; and  
9 (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10  
10 days after the revised funding schedules have been submitted in written form to the house and senate  
11 committees on ways and means.

### **Inspector General Audit Authorization**

1       SECTION 75. Notwithstanding any general or special law to the contrary, in hospital fiscal year  
2 2009, the office of the inspector general may continue to expend funds appropriated pursuant to section 1  
3 of chapter 240 of the acts of 2004 from the Health Safety Net Trust Fund for the costs associated with  
4 maintaining a pool audit unit within that office. The unit shall continue to oversee and examine the  
5 practices in all Massachusetts' hospitals including, but not limited to, the care of the uninsured and the  
6 resulting free care charges. The inspector general shall submit a report to the house and senate committees  
7 on ways and means on the results of the audits and any other completed analyses not later than March 1,  
8 2009. For the purposes of the audits, allowable free care services shall be defined pursuant to chapter 118G  
9 of the General Laws and any regulations promulgated pursuant thereto.

### **UMass/EHS Interagency Service Agreements**

1       SECTION 76. Notwithstanding any general or special law to the contrary, the executive office of  
2 health and human services under section 16 of chapter 6A of the General Laws, acting in its capacity as the  
3 single state agency under Title XIX of the Social Security Act and as the principal agency for all of the  
4 agencies within the executive office, and other federally assisted programs administered by the executive  
5 office, may enter into interdepartmental services agreements with the University of Massachusetts medical  
6 school to perform activities that the secretary, in consultation with the comptroller, determines are  
7 appropriate and within the scope of the proper administration of Title XIX and other federal funding  
8 provisions to support the programs and activities of the executive office. These activities shall include: (1)  
9 providing administrative services, including, but not limited to, activities such as providing the medical  
10 expertise to support or administer utilization management activities, determining eligibility based on  
11 disability, supporting case management activities and similar initiatives; (2) providing consulting services  
12 related to quality assurance, program evaluation and development, integrity and soundness and project  
13 management; and (3) providing activities and services for the purpose of pursuing federal reimbursement or  
14 avoiding costs, third party liability and recouping payments to third parties. Federal reimbursement for any  
15 expenditures made by the University of Massachusetts medical school relative to federally reimbursable  
16 services the university provides under these interdepartmental service agreements or other contracts with  
17 the executive office of health and human services shall be distributed to the university, and recorded  
18 distinctly in the state accounting system. The secretary may negotiate contingency fees for activities and  
19 services related to the purpose of pursuing federal reimbursement or avoiding costs, and the comptroller  
20 shall certify these fees and pay them upon the receipt of this revenue, reimbursement or demonstration of  
21 costs avoided. Contracts for contingency fees shall not extend longer than 3 years, and shall not be renewed  
22 without prior review and approval from the executive office of administration and finance. The secretary  
23 shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2009. The secretary of health  
24 and human services shall submit to the secretary of administration and finance and the senate and house  
25 committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and

new projects undertaken by the university, the amounts spent on personnel and the amount of federal reimbursement and recoupment payments that the university collected.

## Chapter 70 Minimum Contribution Waiver

SECTION 77. (a) Notwithstanding any general or special law to the contrary, upon the request of the board of selectmen in a town, the city council in a plan E city, or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2009. Based on the criteria established in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which will not be available for use in the next fiscal year, or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor, may appeal to the department of revenue on or before October 1, 2008 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2009 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a plan E city, the mayor in any other city, or a majority of the member municipalities of a regional school district, which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the department of revenue not later than October 1, 2008 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined pursuant to this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of relief authorized pursuant to this section.

51 (i) The amount of financial assistance due from the commonwealth in fiscal year 2009 pursuant to  
52 chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of  
53 the minimum required local contribution pursuant to this section.

54 (j) The department of revenue and the department of education shall issue guidelines for their  
55 respective duties pursuant to this section.

#### **Blue Hills Observatory & Science Center Long-Term Lease**

1 SECTION 78. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive,  
2 of chapter 7 of the General Laws, the division of capital asset management and maintenance, in  
3 consultation with the department of conservation and recreation, using a competitive proposal process that  
4 the division considers necessary or appropriate, may lease and enter into other agreements, for terms not to  
5 exceed 25 years, to 1 or more operators, for the Blue Hills Observatory and Science Center in Canton so as  
6 to provide for the continued use, operation, maintenance, repair and improvement of such state-owned  
7 recreational facility together with the land and appurtenances associated with it.

8 (b) The lease or other agreements shall be on terms acceptable to the commissioner of capital asset  
9 management and maintenance, after consultation with the commissioner of conservation and recreation  
10 and, notwithstanding any general or special law to the contrary, shall provide for the lessee to operate,  
11 manage, improve, repair and maintain the properties. The lease or other agreement requiring improvements  
12 to be made to any portion of the facility may include a description of the initially required improvements  
13 and performance specifications.

14 (c) Consideration received under the terms of the lease or other agreement shall be payable to the  
15 department of conservation and recreation for deposit into the Blue Hills Reservation Trust Fund in  
16 accordance with section 34C of chapter 92 of the General Laws. The lessee or recipient of such property  
17 shall bear costs considered necessary or appropriate by the commissioner of conservation and recreation for  
18 the transactions including, without limitation, costs for legal work, survey, title and the preparation of plans  
19 and specifications.

#### **Blue Hills Ski Area Long Term Lease**

1 SECTION 79. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive,  
2 of chapter 7 of the General Laws and using competitive proposal processes that the division considers  
3 appropriate, the division of capital asset management and maintenance, in consultation with the department  
4 of conservation and recreation, may lease or enter into other agreements for the Blue Hills Ski Area in the  
5 town of Canton, for terms not to exceed 25 years, to 1 or more operators so as to provide for the continued  
6 use, operation, maintenance, repair and improvement of this state-owned recreational facility together with  
7 the land and appurtenances associated with it.

8 (b) The lease or other agreements shall be on terms acceptable to the commissioner of capital asset  
9 management and maintenance, after consultation with the commissioner of conservation and recreation  
10 and, notwithstanding any general or special law to the contrary, shall provide for the operator to operate,  
11 manage, improve, repair and maintain the properties. The lease or other arrangement requiring  
12 improvements to be made to any portion of the facility may include a description of the initially required  
13 improvements and shall include performance specifications.

14 (c) The inspector general shall review and approve any request for proposal issued by the division  
15 before its issuance.

16 (d) Consideration received under the terms of the lease or other agreement shall be payable to the  
17 department of conservation and recreation for deposit into the Blue Hills Reservation Trust Fund in  
18 accordance with section 34C of chapter 92 of the General Laws. The operator shall bear costs as



19 determined by the commissioner of conservation and recreation for the transactions including, without  
20 limitation, costs for legal work, survey, title and the preparation of plans and specifications.

### **Ponkapoag Golf Course Lease**

1 SECTION 80. (a) Notwithstanding sections 40E to 40K and 52 to 55, inclusive, of chapter 7 of  
2 the General Laws, the division of capital asset management and maintenance, in consultation with the  
3 department of conservation and recreation, may, using competitive proposal processes that the division  
4 considers necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years,  
5 to 1 or more proponents, so as to provide for the continue use, operation, maintenance, repair and  
6 improvement of all or a portion of the golf courses, practice greens, driving range, restaurant or any other  
7 structure and associated lands that comprise the facilities of the Ponkapoag Golf Course of the department.  
8 The division shall hold open a pre-qualification period of at least 120 days for the town of Canton.  
9

10 (b) The division of capital asset management and maintenance shall, if no lease agreement is reached with  
11 the municipality in which the golf course is located, solicit proposals through a request for proposals which  
12 shall include key contractual terms and conditions to be incorporated into the contract, including, but not  
13 limited to: (1) a commitment to give the town of Canton community benefits equal to or greater than the  
14 amount that the contracting entity would pay in property taxes for the golf course if it were taxable  
15 commercial property; (2) reservation policies and reasonable rates; (3) holiday recognition; (4) required  
16 financial audits; (5) grievance process; (6) clubhouse license; (7) retain public access; and (8) a  
17 commitment that for the first 5 years of any contract or lease, the contractor or lessee shall not raise  
18 existing fees and charges for greens fees, golf cart and club rentals more than \$5 per year and for season  
19 passes more than 5 per cent per year. After the fifth year of any contract or lease, if the contractor or lessee  
20 proposes to increase any fee, or charge, the party shall submit a letter of request to the department of  
21 conservation and recreation. In considering each request, the department of conservation and recreation  
22 will consider all factors that it considers relevant, including, without limitation, the following:  
23

- 24 1. Capital investments made by the contractor or lessee to the premises;
- 25 2. Greens fees and other fees and charges by other public golf courses within reasonable proximity of  
26 the premises; and
- 27 3. The length of time since the last fee increase, if any.  
28

29 An increase shall not be charged until approved, in writing, by the department of conservation and  
30 recreation. The department shall not unreasonably withhold, condition, or delay its approval.  
31

32 (c) Notwithstanding other provisions of this section or any other general or special law to the contrary, it  
33 shall be a mandatory term of a request for proposals issued by the commissioner and of a contract entered  
34 into by the commonwealth with a party regarding the subject matter of this section that a party which has  
35 entered into a contract under this section with the commonwealth shall require, in order to maintain stable  
36 and productive labor relations, to avoid interruption of the operation of the golf course and to preserve the  
37 safety and environmental conditions of the course, that employees currently working on the operation and  
38 maintenance of the course be offered employment by a party entering into a contract under this section.  
39 Upon the execution of any agreements authorized by this section, the department of conservation and  
40 recreation shall attempt to reassign or relocate those employees who do not accept employment with the  
41 lessor to comparable positions within the department, subject to applicable collective bargaining  
42 agreements.  
43

44 (d) Any general or special law, rule or regulation relating to the advertising, bidding or award of  
45 contracts, the procurement of services or the construction and design of improvement shall be applicable to  
46 a selected offeror which is awarded a contract under this section, except as otherwise provided in this  
47 section.

## **Ulin Rink Long Term Lease**

1       SECTION 81. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive,  
2 of chapter 7 of the General Laws, and using those competitive proposal processes as the division of capital  
3 asset management and maintenance considers necessary or appropriate, the division, in consultation with  
4 the department of conservation and recreation, may lease and enter into other agreements, for terms not to  
5 exceed 25 years, to 1 or more proponents, for Ulin memorial rink in the town of Milton, so as to provide for  
6 the continued use, operation, maintenance repair and improvement of such state-owned buildings and  
7 facilities, together with the land and appurtenances associated therewith,

8       (b) The failure of a city or town to apply for prequalification, as set forth below, shall not prohibit  
9 that city or town from bidding under this section.

10       (c) Before the division, in consultation with the department, sends out a request for proposals under  
11 this section, the division shall hold open a prequalification period of 45 days for cities and towns and youth  
12 oriented nonprofit organizations that desire to bid on rinks that are listed in this section and are located  
13 within the city or town, or for a partnership of municipalities which share geographic boundaries as long as  
14 the subject rink is located within the geographic area of the municipalities comprising the partnership. A  
15 city, town, youth oriented nonprofit organization or partnership of municipalities that desires to lease a rink  
16 under this section may submit materials for prequalification. The prequalification determination may  
17 consider, but need not be limited to, the city's, town's, youth oriented nonprofit organization's or  
18 partnership's ability to finance the capital improvements determined to be necessary at each rink listed in  
19 this section by the division and to manage, operate and maintain the properties. Preference shall be given  
20 to the city or town in which the rink is located. The division, in consultation with the department, shall  
21 determine whether a city, town, youth oriented nonprofit or partnership is prequalified within 15 days of  
22 the end of the prequalification period. If a city, town, youth oriented nonprofit organization or partnership  
23 is determined to be prequalified, that city, town, youth oriented non-profit organization or partnership shall  
24 be awarded the lease for that rink under the terms and conditions set forth in this section. If a city, town,  
25 youth oriented nonprofit organization or partnership is determined to be prequalified, that city, town, youth-  
26 oriented non-profit organization or partnership shall pay consideration for a lease subject to the required  
27 capital improvements, performance specifications and other prequalification requirements and terms of the  
28 division and submitted proposal. The length of the lease shall be determined between the division and the  
29 city, town, youth oriented nonprofit organization or partnership.

30       (d) The lease and other agreements shall be on terms acceptable to the commissioner of capital asset  
31 management and maintenance, after consultation with the commissioner of conservation and recreation  
32 and, notwithstanding the provisions of any general or special law to the contrary, shall provide for the  
33 lessees to operate, manage, improve, repair and maintain the properties and may provide for the department  
34 to make initial capital improvements or direct grant funds to the lessee to undertake initial capital  
35 improvements at 1 or more of the properties that the commissioner determines is necessary due to the  
36 structural condition of the property. Leases or other arrangements requiring improvements to be made to a  
37 property may include a description of the initially required improvements and performance specifications.  
38 Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to  
39 user groups in the following order of priority: general public skating; youth groups; high school hockey;  
40 and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator, but  
41 general public skating shall be booked at a minimum of 12 hours per week, with a range of times and days  
42 which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every  
43 effort shall be made to balance the ice allocation needs of long-established youth organizations and newly-  
44 formed youth organizations in a manner that provides equal opportunity and equal access for youths of  
45 each gender. The leases and other agreements authorized in this section shall provide that any benefits to  
46 the communities and the costs of improvements and repairs made to the properties provided by the lessees  
47 or the recipients of the properties shall be taken into account as part of the consideration for such leases or  
48 other agreements. Consideration received from the leases or other agreements shall be payable to the  
49 department of conservation and recreation for deposit into the Division of Urban Parks Trust Fund in  
50 accordance with section 34 of chapter 92 of the General Laws. The lessees or the recipients of the  
51 properties shall bear the costs considered necessary or appropriate by the commissioner of conservation and

recreation for the transactions including, without limitation, costs for legal work, survey, title and the preparation of plans and specifications.

(e) The names of the ice skating rinks and facilities referenced in this section shall not be altered or changed under the leases or agreements.

### **OxyContin and Heroin Epidemic Study Commission**

SECTION 82. There shall be a special commission to investigate and study the impact of the OxyContin and heroin epidemic on state and municipal government and the substance abuse treatment system and to identify potential strategies for efficiency and statutory recommendations in order for the commonwealth to more effectively cope with said epidemic.

The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 1 person to be appointed by the governor; a representative from the Bureau of Substance Abuse Services; a representative from the Massachusetts District Attorneys Association; the chair of the Department of Psychiatry at the University of Massachusetts Medical School; a representative from the Trial Court; and a representative from the department of correction.

The commission shall consider, without limitation: the total direct and indirect cost to the commonwealth as a result of substance abuse; the number of repeat detoxifications on an annual basis; recidivism of those committed in civil commitment programs for abuse of OxyContin or heroin; modifications to the civil commitment laws to reflect the long-term neurobiological impact that OxyContin and heroin abuse has on those addicted; the benefits of long-term residential programs that are of at least 90 days and how the commonwealth may transition to such a model; the juncture at which an addicted individual that is committed for OxyContin or heroin abuse may make competent decisions relative to his own course of treatment; the implementation of an intensive case management system in the commonwealth and how other states have incorporated such a system; the establishment of a system of regional secure treatment centers; the number of inmates suffering from opiate dependence; recidivism in the criminal justice system for OxyContin and heroin abuse; statutory restrictions on parents and families with adolescents addicted to OxyContin or heroin; the sources of heroin, OxyContin and other prescription opiates available on the street; enhancements to the commonwealth's prescription monitoring program so that the data collected is a preventative resource for prescribers, law enforcement and treatment professionals; and the establishment of an outpatient commitment program.

The commission shall work with the department of public health, the executive office of public safety and security, the trial court, the department of correction and other entities that the commission deems appropriate. The commission shall submit a report of its findings and recommendations, together with drafts of legislation and regulations necessary to carry those recommendations into effect, by filing the same with the clerks of the house of representatives and the senate, the joint committee on mental health and substance abuse and the house and senate committees on ways and means not later than January 1, 2009.

### **Treasurer Bond Finance Law Study**

SECTION 83. The state treasurer shall submit a report to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets no later than January 1, 2009 detailing the current status of state finance law pertaining to the use and sales of bonds and recommendations on legislation to update the commonwealth's General Laws to better reflect current standards and to better utilize the state's capital program. This report shall include, but not be limited to: out of date finance sections of the General Laws, recommendations on how to update these sections, and recommendations on new sections to reflect changes in the finance field since they were originally written.

## **DCAMM Capital Spending Report**

1       SECTION 84. The secretary of administration and finance shall submit a report to the house  
2 and senate clerks, the house and senate committees on ways and means, the joint committee on  
3 bonding, capital expenditures and state assets and the joint committee on transportation not later  
4 than January 31, 2009 on all expenditures of the division of capital asset management and  
5 maintenance in Fiscal Year 2008. This report shall include, but not be limited to: the total  
6 amount expended on salaries and benefits for the division of capital asset management and  
7 maintenance employees and outside contractors, the total amount spent on the administration of  
8 the division of capital asset management and maintenance, the total amount spent on the design  
9 and development of the division of capital asset management and maintenance projects, the total  
10 amount spent on the construction and maintenance of the division of capital asset management  
11 and maintenance projects, the total value of all surplus property held by the commonwealth, the  
12 cost of maintaining the capital asset management information system, any other cost not included  
13 in these categories and the total cost of debt service supporting the administrative and salary  
14 expenditures of the division of capital asset management and maintenance in fiscal year 2008.

## **Department of Mental Retardation Name Change II**

1       SECTION 85. The department of developmental disability services shall serve the same population  
2 as the department of mental retardation and shall not exclude any class of individuals that is currently  
3 receiving services from the department of mental retardation. This name change is solely for administrative  
4 purposes and shall not determine the scope of individuals served by the department.

## **Consolidated Net Surplus Distribution III**

1       SECTION 86. Sections 7 and 12 shall take effect on June 30, 2008.

## **Department of Mental Retardation Name Change III**

1       SECTION 87. Sections 10 and 85 of this act shall take effect on June 30, 2009.

## **Tobacco Reclassification XIII**

1       SECTION 88. Sections 22, 29 to 33, inclusive, 40, 41 and 72 of this act shall take effect on  
2 October 1, 2008.

## **Tax Revenue Enforcement Efficiencies XIII**

1       SECTION 89. Sections 43, 45 and 46 of this act shall apply to sales of tobacco products occurring  
2 on or after September 1, 2008, by manufacturers, wholesalers, unclassified acquirers and other persons  
3 specified in section 43.

## **Effective Date**

1       SECTION 90. Except as otherwise specified, this act shall take effect on July 1, 2008.